

**REMARKS**

Reconsideration of this application is respectfully requested.

**I. Restriction**

The Examiner required restriction under 35 U.S.C. § 121 between:

- I. Claims 1, 9(a), 10, 11, and 15-19, drawn to a polynucleotide.
- II. Claims 4, 5, 8, 9(b), 9(c), 9(d), 10, 11, and 42, drawn to a polypeptide and antigenic conjugate.
- III. Claims 12, 34(a), and 34(b), drawn to a process of immunizing and treating malaria comprising administering a polypeptide.
- IV. Claims 13 and 14, drawn to antibody.
- V. Claims 20-22 and 24-31, drawn to an immunogenic composition or vaccine comprising a protein antigen.
- VI. Claim 23, drawn to an immunogenic composition comprising DNA.
- VII. Claims 32 and 33, drawn to a pharmaceutical composition comprising an antibody.
- VIII. Claim 34(c), drawn to a method of treating malaria comprising administering an antibody.
- IX. Claims 35 and 37, drawn to an in vitro process of detecting malaria using an antibody.
- X. Claims 12, 34(a), and 34(b), drawn to a method of treating malaria comprising administering DNA or a polynucleotide.
- XI. Claims 36 and 43, drawn to an in vitro process of detecting malaria using an antigen.

XII. Claims 38 and 40, drawn to a kit comprising an antigen.

XIII. Claims 39 and 44, drawn to a kit comprising an antibody.

## **II. Election and Claim Amendments**

Applicants provisionally elect to prosecute Group II, comprising claims 4, 5, 8, 9(b), 9(c), 10, 11, and 42 drawn to a polypeptide and antigenic conjugate. Applicants also elect the sequence SEQ ID No.: 3 (DG747 antigen).

With this amendment, Applicants amend claims 4, 5, and 9 to refer only to elected Group II and the elected sequence, SEQ ID No.: 3. Support for these amendments can be found in the claims as originally filed.

In addition, claims 1, 12-40, and 43-44 have been withdrawn from examination. Applicants also amend claim 34 to remove part c), which refers to the process of treating malaria comprising administering an antibody. These amendments to the claims do not add new matter. Claims 1, 4, 5, 8-40, and 42-44 are pending and claims 4, 5, 8-11, and 42 are under examination.

## **III. Rejoinder**

Applicants respectfully submit that even if the Office finalizes the restriction requirement, the Office must, upon allowance of claim 9, rejoin claims 12, 34, 36, and 43, which constitute process claims that include all the limitations of elected product claim 9. When it is established that a product claim is allowable, withdrawn process claims that depend from, or otherwise include all the limitations of, the allowable product claim must be rejoined. M.P.E.P. § 821.04.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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